

FILED
CHARLOTTE, N. C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
MISCELLANEOUS ORDER NO. 3-06-MC-36

MAR 17 2006

U. S. DISTRICT COURT
W. DIST. OF N. C.

ADMINISTRATIVE ORDER

RE: REFUNDS OF FILING FEES

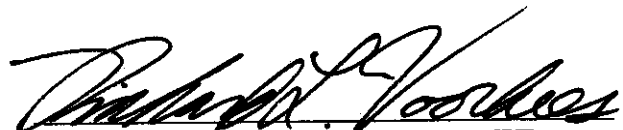
THIS MATTER is before the Court on its own motion to establish procedures for the Clerk of Court to refund filing fees:

IT IS HEREBY ORDERED that:

1. The Clerk of Court, pursuant to the long-standing Judicial Conference policy prohibiting the refund of fees, is authorized to issue the following limited types of refunds:
 - a. fees collected without proper authority.
 - b. Duplicate credit card payments that occurred as a result of a failed Internet credit card process.
2. If the Clerk discovers an erroneous filing for which a fee has not yet been collected, the Clerk may correct the erroneous filing administratively and not collect the fee.

All other request for fee refunds require a judicial determination and shall be filed by motion and accompanied by an ex parte order.

SO ORDERED, this 15th day of March, 2006.


RICHARD L. VOORHEES, CHIEF
U.S. DISTRICT JUDGE



LEONIDAS RALPH MECHAM
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

CLARENCE A. LEE, JR.
Associate Director

WASHINGTON, D.C. 20544

July 29, 2005

**MEMORANDUM TO: CHIEF JUDGES, UNITED STATES BANKRUPTCY COURTS
CLERKS, UNITED STATES BANKRUPTCY COURTS**

SUBJECT: Guidance for Refund of Fees Paid Electronically (INFORMATION)

In March 2005, the Judicial Conference approved the attached guidance for the refund of fees that are paid electronically in bankruptcy courts.

The Judicial Conference's current policy regarding refunding of filing fees, in effect since 1949, has been broadly interpreted to generally prohibit refunds of fees due upon filing, even if a party filed the case in error, or the court dismissed the case or proceeding (JCUS-MAR 49, p. 202). With the advent of CM/ECF, difficulties with the application of the refund policy have greatly increased. The Judicial Conference has endorsed the attached guidance which addresses only limited refund authority by the courts when errors in electronic payments are made and is intended to assist the courts in the exercise of their discretion in this area. This guidance does not amend the general refund policy and will initially only apply to bankruptcy courts, as neither the appellate nor district courts now accept fee payments through the CM/ECF system.

Questions regarding the guidelines may be addressed to Mary Louise Mitterhoff or Mary Fritsche, Bankruptcy Court Administration Division, at (202) 502-1540.

A handwritten signature in black ink, reading "Leonidas Ralph Mecham", is positioned above the printed name.

Leonidas Ralph Mecham

Attachment

Guidance Regarding Refunds of Fees Paid Electronically

The Judicial Conference has a long-standing policy prohibiting the refund of fees. In a paper environment, this policy has been fairly simple to administer, but questions have greatly increased since the implementation of CM/ECF, which encompasses the ability to collect filing fees electronically via credit card. This guidance seeks to assist courts in determining when to exercise their discretion in addressing fees paid electronically.

- Judicial Conference policy generally prohibits the refund of fees; this guidance addresses only limited refund authority by the courts when errors in electronic payments are made.
- A court's procedures for addressing fee refunds in CM/ECF should be developed by the judges of the court in conjunction with their clerk.
- The authority to approve a refund is a judicial determination. This determination may be delegated to the clerk as long as the court's procedures clearly address the type of refund that a clerk can approve.
- Requests for refunds should be made by either motion or application, and procedures governing refunds may be set forth by local rule or standing order.
- If the court discovers an erroneous filing for which a fee has not yet been collected, the court may correct the erroneous filing administratively and not collect the fee.
- Refunds should be processed through the electronic credit card system; courts should not issue refunds through checks.
- In the event that a particular attorney or law firm continues to make repeated mistakes when submitting fees and requesting refunds, the court may consider remedial action, such as issuing an order to show cause why further requests for refunds should be considered.

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

IN RE:

Refunding of Filing Fees

FILED
David E. Welch

AUG 18 2005

Clerk, U.S. Bankruptcy Court
Western District of NC//ASW

JUDGMENT ENTERED ON AUG 18 2005

ADMINISTRATIVE ORDER
REGARDING REFUNDING FILING FEES

THIS CAUSE is before the Court to establish practices and procedures for the Clerk of Court regarding the refunding of filing fees:

It is hereby **ORDERED** that:

1. The Clerk of Court pursuant to the guidelines of the Bankruptcy Fee Compendium is authorized to issue the following types of refunds:
 - a. Fees collected without authority.
 - b. Duplicate credit card payments that occurred as a result of a failed Internet Credit Card process.
2. Refund request for duplicate petitions shall be filed by motion or application accompanied by a notice of hearing.
3. All other request for filing fee refunds require a judicial determination and should be filed either by motion or application and accompanied by an ex parte order.
4. If the court discovers an erroneous filing for which a fee has not yet been collected, the court may correct the erroneous filing administratively and not collect the fee.


U. S. Bankruptcy Court Judge

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